

ENTERED

August 27, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

RALPH LEE ARISMENDEZ, *et al*,

Plaintiffs,

VS.

COASTAL BEND COLLEGE, *et al*,

Defendants.

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CIVIL ACTION NO. 2:17-CV-159

ORDER

Plaintiffs complain that the manner of electing members of the Coastal Bend College's (CBC's) Board of Trustees violates the Voting Rights Act, 42 U.S.C. § 1973, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. D.E. 1. On March 26, 2018, CBC filed a motion to compel (D.E. 15), complaining that Plaintiffs had not filed their disclosures and had not responded to discovery requests as required by law. Plaintiffs did not appear for the hearing and the Court granted the motion. D.E. 17.

On June 28, 2018, CBC filed its "Motion for Contempt and Motion to Dismiss Under Rule 37(b)(2)" (D.E. 20). CBC states that Plaintiffs have not timely complied with the Court's Order compelling Plaintiffs to serve their discovery responses. CBC argues that Plaintiffs have acted willfully because they have failed to respond to discovery requests, reply to opposing counsel's informal inquiries, appear in court for hearings, and comply with this Court's prior Order. It is clear that CBC has been prejudiced by Plaintiffs' multiple failures to comply with the law and this Court's orders

in that CBC has been deprived of information necessary to the preparation of a defense of the lawsuit and the failures have interfered with the timely disposition of the case. CBC requests attorneys' fees in the amount of \$15,113.70 and expenses in the amount of \$174.02 as sanctions for discovery abuse and contempt under Rule 37. D.E. 20-1. CBC also requests that this action be dismissed.

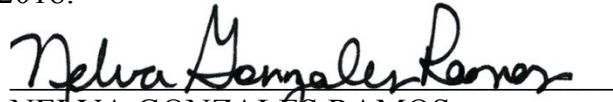
Plaintiffs have not responded to the motion for contempt and to dismiss (D.E. 20). Instead, they filed a motion for nonsuit on July 18, 2018 (D.E. 21, 22), seeking dismissal without prejudice. Pursuant to Southern District of Texas Local Rule 7.3, opposed motions will be submitted to the judge 21 days from filing. Defendant's motion (D.E. 20) was filed on June 28, 2018 and its submission date was July 19, 2018. Pursuant to Local Rule 7.4, failure to respond is taken as a representation of no opposition to the relief sought.

Since appearing for the initial pretrial conference on August 4, 2017, Plaintiffs have failed to take any discernable action to prepare this case for trial. Plaintiffs have failed to respond to CBC's discovery requests, failed to comply with this Court's Order compelling discovery responses, failed to appear for hearings, and failed to respond to the motion now before the Court. And they previously failed to respond to the motion to dismiss (D.E. 10) filed by CBC's co-Defendants, resulting in the dismissal of the claims against eight individual Defendants. Plaintiffs' only appearance since the initial pretrial conference has been to seek a continuance of a status conference that had already been reset. D.E. 18, 19.

The Court GRANTS CBC's motion for contempt and to dismiss and DISMISSES WITH PREJUDICE all remaining claims in this action. (D.E. 20) The Court DENIES Plaintiffs motion for nonsuit without prejudice (D.E. 21, 22).

After due consideration of CBC's request for attorneys' fees and expenses, the Court awards attorneys' fees related to Plaintiffs' failure to respond to discovery, the filing of the motion to compel, and the pending motion for contempt and to dismiss. The Court thus ORDERS Plaintiffs, jointly and severally, to pay to CBC the amount of \$3,059.00 in attorneys' fees and \$20.17 in expenses, for a total amount of \$3,079.17.

ORDERED this 27th day of August, 2018.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE